

INITIAL STATEMENT OF REASONS

Title 9. Rehabilitative and Developmental Services
Division 4. Department of Alcohol and Drug Programs
Chapter 3. Programs for Alcohol and Drug Impaired Drivers
[commencing with Section 9795]

SPECIFIC PURPOSE AND NECESSITY OF EACH REGULATORY CHANGE

The Department of Alcohol and Drug Programs (ADP) is amending regulations concerning Programs for Alcohol and Drug Impaired Drivers contained in Chapter 3 (commencing with section 9795), Division 4, title 9 of the California Code of Regulations. These regulations will implement, interpret and make specific Health and Safety Code sections 11837(c)(2) as enacted by AB 1353 (Chapter 164, Statutes of 2005); section 11837(e), and section 11837.4, as well as Vehicle Code sections 23540 and 23542, and Penal Code sections 191.5 and 192 (c) (3). In addition, these changes are necessary to simplify administrative procedures for Driving Under the Influence (DUI) programs and to improve clarity, consistency, and continuity throughout.

This regulatory action arises from the passage of Assembly Bill 1353 in 2005, amendments to Health and Safety Code sections 11837(e), amendments to the Vehicle Code and Penal Code effective 2007, and various policy changes supported by the former DUI Advisory Workgroup. The specific purpose of each amendment of the proposed text and the rationale supporting the Department of Alcohol and Drug Programs' (ADP) determination that each amendment is reasonably necessary to carry out the purpose for which the amendment is proposed as follows:

Proposed amended CCR, title 9, § 9795. Application and Purpose of Regulations.

The term "drinking driver" has been replaced by Driving-Under-the-Influence (DUI) to maintain consistency throughout Chapter 3.

Proposed amended CCR, title 9, § 9800, Definitions.

This proposed regulation modifies section 9800, (19) to comport with the modifications to the Vehicle Code section 23540 which became effective September 20, 2005, and penal Code sections 191.5 which became effective January 1, 2007.

The term "Multiple Offender" definition has been modified to reflect changes in the Vehicle Code section 23103 and Penal Code section 191.5.

The definition of “Significant Other” was added to comport with the amended Health and Safety Code section 11837(e).

The definition of “Working Days” has been added to distinguish from “Days” which are calendar days.

Proposed amended 9 CCR, § 9801.5. County Responsibilities.

This text has been modified to reflect the new title for the County Administrator which is the “County alcohol and drug program administrator.” These changes also affect 9 CCR § 9816. Drinking driver has been changed to Driving Under the Influence (DUI) and DUI replaces all references to drinking driver. These changes affect 9 CCR, § 9801.6; § 9812; § 9838; §9852; §9862; § 9876; §9795; §9800; §9801.5; and § 9816;

Proposed amended 9 CCR, § 9804. Content of Application.

The term 3 month has been modified to “first offender” as the first offender program also includes a 6 month program and a 9 month program.

Proposed amended 9 CCR, § 9820. Extension of Period of Licensure.

Corrected code section references to the Health and Safety Code.

Proposed amended 9 CCR, § 9822. Program Licensing Fees.

Revision necessary to clarify the notification pertaining to licensing fees.

Proposed amended 9 CCR, § 9829. Unlicensed Programs.

Revision necessary for minor change in reference to code section.

Proposed amended 9 CCR, § 9836. Administrative Review of Licensing Actions.

Simple grammar and zip code corrections.

Proposed amended 9 CCR, § 9846. Staff Qualifications and Function.

The existing regulations were not clear as to the counselor experience required for the provision of alcohol and drug (AOD) counseling sessions and the provision of educational sessions to participants. The proposed regulations make a distinction between both education and counseling services and seek to clarify the necessary requirements.

Proposed amended 9 CCR, § 9848. Participant Enrollment.

Existing regulations were not clear as to the duties assigned to administrative staff versus those of the counseling staff. Proposed regulations seek to clarify these duties, allowing the programs to utilize their clerical staff for those tasks that do not specifically denote AOD counseling requirements. This allows the programs to better utilize their resources.

Proposed amended 9 CCR, § 9849. Assessment of Participant's Alcohol or Drug Program.

Additional language was added to the existing regulations to specify what the assessment consists of in connection with a participant's AOD history. The importance of a comprehensive assessment is necessary to identify potential needs of a participant beyond the services of the DUI program.

Proposed amended 9 CCR, § 9851. Program Services to be Provided.

Revisions are necessary to clarify time frame for assessment process and maintain consistency with amendments made to the Health and Safety Code § 11837(c)(2) and several amendments pertaining to Health and Safety Code § 11837.4.

Proposed amended 9 CCR, § 9852. Educational Sessions.

Revisions are necessary to clarify the use of films in educational sessions. Amendments made to the terms "friend," and "significant other" to maintain consistency with Health and Safety Code § 11837(e).

Proposed amended 9 CCR, § 9854. Group Counseling Sessions.

Amendments made to the terms "friend," and "significant other" to maintain consistency with Health and Safety Code § 11837(e).

Proposed amended 9 CCR, § 9862. Referral to Ancillary Services.

Revisions are necessary to clarify the types of ancillary services to which the licensee may refer the participant.

Proposed amended 9 CCR, § 9866. Organization and Maintenance of Participant Records.

Revision is necessary to clarify instructions regarding participant records and their organization.

Proposed amended 9 CCR § 9867. Notice of Completion Certificates.

Revisions relate to the use, the procedure, and/or the withholding of these certificates.

Proposed amended 9 CCR § 9868. Proof of Enrollment Certificates.

DMV procedures were modified and these regulations are made consistent with the DMV procedures.

Proposed amended 9 CCR § 9874. Program Sobriety.

Revisions are necessary to clarify and remove redundant language.

Proposed amended 9 CCR § 9876. Participant Attendance.

Definition of “Period of Enrollment” added to prevent participants from transferring from one program to another in order to avoid dismissal for excessive absence.

Proposed amended 9 CCR § 9876.5. Leave of Absence.

The County Alcohol and Drug Program Administrator no longer reviews requests for leaves of absence. The language was modified to reflect that the program administrator or his designee will review all such requests.

Proposed amended 9 CCR § 9878. Participant Fees.

Revisions are necessary to improve clarity, monitoring, and accountability.

Proposed amended 9 CCR § 9879. Financial Assessment to Determine Participant's Ability to Pay Program Fees.

Revisions are necessary for clarification of individual and group counseling.

Proposed amended 9 CCR § 9884. Interprogram Transfer.

Revisions indicate the current process, that is, the County will not have oversight of transfers but is up to the individual program licensee.

Proposed amended 9 CCR § 9886. Dismissal of Participants.

Revisions are necessary to clarify the participant responsibility.

FISCAL IMPACT STATEMENTS:

Anticipated costs or savings in federal funding to the Federal Government: None. ADP does not anticipate any cost to the federal government as the result of this regulatory action because these regulations do not impact any federally funded State agency or program.

Anticipated costs or savings to any State agency: None.

Anticipated costs to county or local government: None.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None. ADP has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This regulatory action will not impose a cost on business, or eliminate businesses, small businesses, or jobs. The proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses, the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

Impact on Small Business: These regulations will impact small businesses, since most DUI programs are small businesses. However, these regulations will not have a detrimental economic impact on small business.

Cost Impact on Representative Private Persons or Businesses: These regulations will not impact individuals receiving services from DUI programs.

Pursuant to Government Code section 11346.2(b)(4), the Department of Alcohol and Drug Programs states that there is no fiscal impact by relying on the fact that there is no fee increase to participants of the programs, to the Department, or to the programs themselves in connection with these proposed regulations. These regulations will allow the AOD programs to use their resources more appropriately to improve their level of services to the participants and to the community.